

**RESULTS OF THE
NATIONAL CRIME PREVENTION AND PRIVACY COMPACT
COMPACT COUNCIL MEETING
WASHINGTON, DC
NOVEMBER 17-18, 1999**

The inaugural meeting of the Compact Council was called to order at 9:00 a.m. on November 17, 1999, in Ballroom D of the Loews L'Enfant Plaza Hotel, Washington, D.C., by Mr. David Loesch, Assistant Director in Charge, FBI CJIS Division. Mr. Loesch welcomed all the members of the Compact Council and all the distinguished guests to the first meeting of the Compact Council.

Mr. Loesch provided the following opening remarks: He stated that this meeting marks a historic moment which has been at least twenty years in the making. This is a result of a tremendous joint effort of a number of organizations. The U.S. Attorney General and her Department of Justice staff, BJS, and SEARCH, all have been very heavily involved. The CJIS Advisory Policy Board and the FBI, especially Mr. Emmet Rathbun, have all been involved from the start. This has been a long time coming and really goes to what was started a long time ago, the decentralization of the records, which has allowed agencies to start doing business the same way.

Mr. Loesch stated that The National Crime Prevention and Privacy Compact Act of 1998 was signed into law October 10, 1998, by President Clinton. The first state to join was Montana. On April 28, 1999, the Compact became effective when Georgia became the second state to ratify the Compact. Since then two other states, Nevada and Florida, have ratified the Compact. Each of these states are represented with a member on the Compact Council.

The state's policies regarding the use of criminal history records for noncriminal justice purposes vary widely. The Compact enables the states to overcome the disparity between the laws concerning the dissemination of this information and how we use criminal history record information for noncriminal justice purposes by allowing the states participating in the Compact to exchange their records with other states in an accordance with the receiving state's laws. This, in itself, is historic and will assist this entire process. It was back in 1978 when the former NCIC Advisory Policy Board recommended a concept that called for the decentralization of records and actually started to work on this. From there we went to III and then to the National Fingerprint File. Today we have 39 states that are participating in III and several others are ready.

The U.S. Attorney General (A.G.) has appointed 13 members of the Compact Council. The Chairman of the Compact Council will nominate an additional two at-large members for three-year terms. In accordance with the law, these two at-large members must also be appointed by the AG. One of these at-large members will be a state/local noncriminal justice agency representative. The other will be a state/local criminal justice agency representative.

The Council is to establish and promulgate rules and procedures governing the use of national criminal history record information supplied to the FBI and participating Compact states. There is a long road ahead of us in getting others to sign up. This too is another

great challenge. Mr. Loesch stated he is very honored to be a member of the Council and looks forward to working with everyone at this and in future meetings.

Mr. Loesch then called the roll of the Compact Council members. The following Compact Council members, or their proxies, were introduced:

<u>- State Officers - Term:</u>		<u>Compact Two - Year</u>
- Dennis Nevada Patrol		Mr. DeBacco, Highway
- Paul Georgia Investigation		Mr. Heppner, Bureau of
- Wilbur Montana Justice		Mr. Rehmann, Department of
- Donna Florida Law		Ms. Uzzell, Department of Enforcement
<u>- Chief</u>		

Administrators of Non-Compact States - Interim Term

- Lt. Clifford Daimler, Oregon State Police (**not in attendance**)
- Maj. Jeffrey Harmon, Maine State Police
- Ms. Dee Laron-Parker (**proxy for Ron Hawley**), North Carolina State Bureau of Investigation
- Ms. Karen McDonald, Minnesota Bureau of Criminal Apprehension
- Capt. Frank McNulty, New Jersey State Police

- **Federal Noncriminal Justice Agency Representative - Three -Year Term**
 - Ms. Kathy Dillamon, Investigative Services, Office of Personnel Management
- **Federal Criminal Justice Agency Representative - Three - Year Term**
 - Mr. Arthur Peoples, Bureau of Alcohol, Tobacco, and Firearms
- **Advisory Policy Board Representative - Three - Year Term**
 - Mr. William Casey, Boston Police Department
- **Federal Bureau of Investigation - Three - Year Term**
 - Mr. David Loesch, FBI CJIS Division

Please see **Attachment #1** for a more detailed Compact Council membership list.

Mr. Loesch introduced Mr. Emmet Rathbun, Federal Bureau of Investigation, who has been appointed by the FBI Director to serve as the FBI Compact Officer. The attendees seated in the gallery introduced themselves.

Agenda items were then addressed.

Adoption of Bylaws

Emmet presented the draft Bylaws Compact discussion as by the Council. made several the draft and Bylaws as Rathbun a copy of the Bylaws, in a strike-out members of Council for See **#2** for the Bylaws as Compact

FBI Action

Mr. suggested webpage be disseminate Compact other documents. stated that a Council site on the DOJ, web pages. Council web

house other information pertaining to the Compact Council for example: membership lists and profiles, upcoming meetings, topic papers, minutes, etc.

FBI Action Item

The Council members requested a legal interpretation concerning liability that members of the Compact Council may face in the performance of their duties and who would provide legal

Mr. Rathbun contents of the of the Council for and revision, appropriate, Compact The Council revisions to adopted the revised. Mr. agreed to send revised red-line and format, to the the Compact their review. **Attachment** revised adopted by the Council.

Item

Rehmann that a used to minutes of the Council and relevant Mr. Loesch Compact can be created FBI, and LEO The Compact page will also

representation to Council members. Mr. Cal Sieg, Chief of the FBI's Access Integrity Unit, agreed to coordinate with the Department of Justice to provide this interpretation.

Compact Council Action:

Mr. William Casey made a motion to adopt the Bylaws as revised. The motion was seconded by Mr. Paul Heppner. The motion carried.

Election of Chairperson

Mr. Loesch conducted the election for the Chairperson of the Compact Council. Mr. Dennis DeBacco nominated Mr. Wilbur Rehmann. This was seconded by Ms. Karen McDonald. Mr. Paul Heppner nominated Ms. Donna Uzzell. This was seconded by Mr. Bill Casey. Mr. Dennis DeBacco made a motion that the nominations for Chairperson be closed. Each candidate made brief comments on their behalf before the election.

Mr. Wilbur Rehmann, Manager, Montana Criminal Justice Information Services Project was elected Chairman.

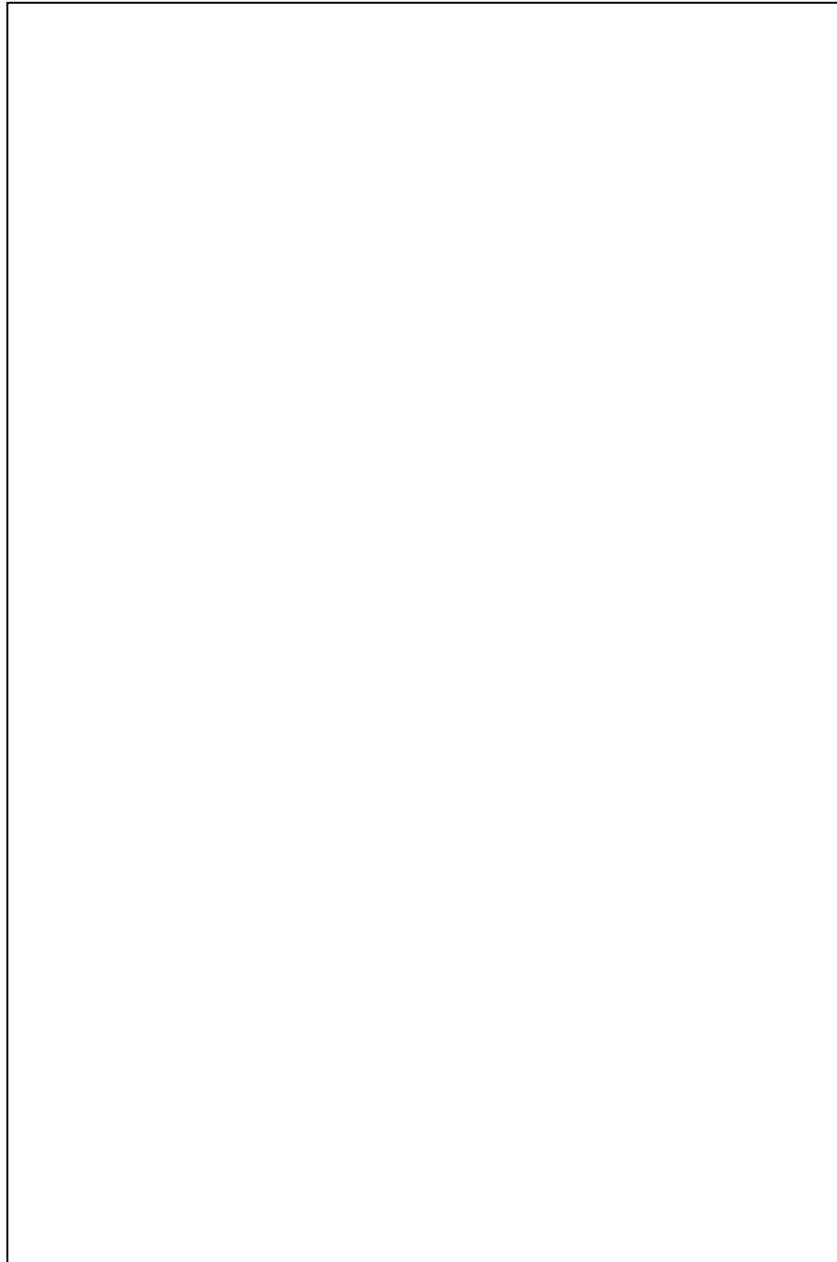
Compact Council Action:

Mr. Bill Casey made a motion that the ballots for the election of Chairperson be destroyed. The motion was seconded by Mr. Arthur Peoples. The motion carried.

REGULAR MEETING CALLED TO ORDER BY CHAIRMAN

Chairman Wilbur Rehmann called the regular Compact Council meeting to order at 1:15 p.m. on November 17, 1999.

Election of Vice Chairperson



Chairman Rehmann conducted the election of Vice-Chairperson. Mr. Loesch nominated Ms. Donna Uzzell for Vice-Chairperson. This was seconded by Mr. William Casey. Mr. Arthur Peoples made a motion that the nominations be closed and that Ms. Donna Uzzell become Vice-Chairperson by acclamation.

Ms. Donna Uzzell, Director, Criminal Justice Information Services, Florida Department of Law Enforcement, was elected Vice-Chairperson.

TOPIC #1 COMPACT OFFICERS' AND STATES' RESPONSIBILITIES

Excerpts From the Compact Council Mission and Responsibilities

Sec. 215. Effect on other laws:

(d) Federal Advisory Committee Act.—The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.)

✓ Ms. Karen McDonald asked about the consequence of the Compact Council not being a federal advisory committee. The response was that the Council has greater freedom to make rules and establish procedures; it is an autonomous decision-making body rather than an advisory body.

ARTICLE II-PURPOSES

The purposes of the compact are to:

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI.

(3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

Ms. Donna Uzzell asked if there was any time-line for states to ratify the Compact and to become NFF participants. Mr. Rathbun responded with “No” as being the opinion of the FBI. He said states are not being encouraged to become NFF participants and then ratify the compact; instead, they are being encouraged to ratify the Compact and then the FBI will work with them to establish what is necessary to be an NFF participating state. Therefore, deadlines or time-lines have not been set.

Uzzell saying that may want to our role is state from Compact to NFF because it is dry. She referring Committee helping Mr. Rathbun is in the rebuilding of his staff. Chairman suggested referring committee, Council until the FBI before is taken.

TOPIC #2

Ms. responded by something we talk about in how we get a ratifying the becoming an participant, not cut and suggested this to a in terms of other states. stated that he process of the NFF part

Rehmann that instead of this to a that the should wait staff is in place further action

COMMITTEES

Many organizations with a structure similar to the Compact

Council use committees to help accomplish their responsibilities. Committees can perform time-intensive tasks and in depth review of issues that could not be done at full Council meetings.

Mr. William Casey recommended establishing an Executive Committee similar to the Executive Committee of the CJIS Advisory Policy Board.

Compact Council Action:

Mr. Bill Casey made a motion that an Executive Committee be formed to work with the FBI to handle matters that arise between meetings of the Compact Council, develop proposals and bring them back to the next Council meeting for discussion and adoption. Chairman Rehmann, Vice Chairperson Uzzell, and Mr. Rathbun will serve as members of this Committee. The motion was seconded by Mr. Arthur Peoples. The motion carried.

TOPIC #3

ADOPTION OF NFF QUALIFICATION REQUIREMENTS

Rule on “NFF Qualification Requirements”

Compact Council Action:

Ms. Donna Uzzell made a motion to adopt the NFF qualification requirements established by the FBI incorporate Compact rules. The seconded by Casey. The carried.

Due to the some members the to review paper before the above withdrawn.

Compact Action:

Ms. Donna a motion to this topic at Compact meeting. was Mr. Arthur motion

Major Jeffrey mentioned Council now have consider this might be

for a Subcommittee to also look at this and provide some guidance. Some Council members have served on the NFF evaluation group and would have more detailed knowledge about how these standards, that are now in place, were derived. It might be useful to have this information before any decisions are made.

Compact Council Action:

and them as Council motion was Mr. William motion

fact that Council did not have opportunity this topic the meeting, motion was

Council

Uzzell made reconsider the next Council The motion seconded by Peoples. The carried.

Harmon that since members will ample time to topic, that it appropriate

The Compact Council agreed to refer the issue of NFF Qualification Requirements to a Standards Committee. It was agreed that the purpose of this committee's work on this issue should be to educate the Compact Council on the background of the NFF requirements, not to rewrite the requirements. The Committee will have a report at the next meeting. The Committee will consist of the following:

Jeffrey Harmon - Chair

Frank McNulty

Kathy Dillaman

Gary Cooper (SEARCH Director)

TOPIC #4

VOLUNTEERS FOR CHILDREN ACT

CJIS attorney, Mr. Cal Sieg presented briefings about the National Child Protection Act (NCPA) and Volunteers for Children Act (VCA). The National Child Protection Act of 1993 became effective December 20, 1993. It allows nationwide background checks, by fingerprints, to determine whether a provider has been convicted of a crime that bears upon the individual's fitness to have responsibility for the safety and well-being of children. The Violent Crime Control and Law Enforcement Act was effective September 13, 1994. It expanded the protected class to include, in addition to children, the elderly and individuals with disabilities. The Volunteers for Children Act otherwise known as the Foley Act became effective October 9, 1998. It relieved the states of a Public Law 92-544 requirement that a "state statute" be passed. By 1998, only six jurisdictions had legislation permitting a national criminal history background check of Boy/Girl Scout volunteers.

CJIS Attorney, Mr. Hal Sklar, presented a copy of the draft CJIS Information Letter, dated November 1, 1999, regarding the Volunteers for Children Act - Amending the National Child Protection Act. Mr. Sklar mentioned that the letters are at the printers and should be mailed out shortly. Mr. Sieg covered most of the information in this letter in his presentation.

Major Harmon said that it is not clear that the Compact Council has the authority

to develop
pertaining to

Loesch said
be good idea
Compact
support the
legislative
SEARCH
A proposal
these efforts
presented to
Council by
Cooper at
session
(November

November
Cooper
following
amendments
NCPA/VCA:

(1)

(2)

regulations
the VCA.

Mr.
that it might
for the
Council to
current
efforts by
and the FBI.
arising from
would be
the Compact
Mr. Gary
the next day's

18, 1999).

On
18, 1999, Mr.
presented the
proposed
to the

tions only to the extent poss

in section by record" that the
section
analysis, or,
lacking that,
in guidelines
prepared by
the Compact
Council, there

should be a statement that the process may be put in place by whatever means the state needs to use -- executive order, regulation, statute, etc.

- (3) An applicant must provide his/her signed acknowledgment (consent) that he/she is amenable to having a background check done. This would be a privacy sensitive consent obtained prior to a background check.

- (4) Any nongovernmental qualified entity receiving the criminal history record from an authorized agency shall adhere to the same requirements and restrictions concerning security, confidentiality, and privacy as would a governmental agency

(5) A NCPA/VCA check shall be conducted pursuant to the Compact. This requirement places these practices squarely within the jurisdiction of the Compact Council.

(6) States will still be allowed to charge fees for these checks.

Compact

Action:

Mr. William
a motion to
proposed
from
(above). The
seconded by
Harmon.
carried.

Compact

Action:

Mr. William
a motion that
Council
efforts of the
SEARCH to
Congress to
National
Protection
particular,

(1) A

(2) M

The motion
seconded by
Heppner.
carried.

Compact

Action:

Mr. William Casey made a motion that Council members would like to review any letter drafted by the Compact Council's Executive Committee. The motion was seconded by Mr. Paul Heppner. The motion carried.

Council

Casey made
accept the
amendments
SEARCH
motion was
Mr. Jeffrey
The motion

Council

Casey made
the Compact
endorse the
FBI and
work with
amend the
Child
Act and, in
Section 3,

cedures to facilitate nation:

suant to the National Crir

was
Mr. Paul
The motion

Council

TOPIC #5

RECORD SCREENING REQUIREMENTS AND NONPARTY
STATE AGREEMENTS

Vice-Chairperson Donna Uzzell mentioned that since the Council referred the NFF issue onto the Standards Committee, Chairman Rehmann's intent was to refer this topic on to the Standards Committee as well and to bring back recommendations back to the full Council.

Compact Council Action:

It was the consensus of the Compact Council to refer this topic to the Standards Committee and then revisit it at the next meeting.

TOPIC #6

DISPUTE ADJUDICATION PROCEDURES

Vice-Chairperson Uzzell informed the Compact Council that Chairman Rehmann intends to serve as the chairman of a new Compact Council Committee on Dispute Adjudication. She then solicited volunteers from the Council to serve on this Committee. Mr. Paul Heppner and Mr. William Casey volunteered to serve on this Committee.

FBI Action

The
to include

from the
for the

OTHER

Item:

Council wishes
legal
representation
FBI as staff
committee.

BUSINESS

PROCEDURES FOR FILLING VACANCIES

Mr. Ron Hawleys replacement:

Mr. Rathbun stated, that, according to the bylaws and according to the Compact, procedures for filling vacancies would be the same as when Mr. Hawley was

General an individual be appointed to this Council. Vice-Chairperson Donna Uzzell expressed an opinion that there would be a value to continuing North Carolina representation on the Council because they are already participating in NFF. Mr. Rathbun added that in non-Compact states, to be qualified, the representative must be the administrator of the state repository. Ms. Dee Loran-Parker, proxy for Mr. Hawley mentioned that this position is vacant at this time.

Chairman Rehmann suggested that the four Compact Officers have a conference call with Mr. Rathbun to get a nominee. Information and opinions will be solicited from the rest of the Council. Ms. Loran-Parker will let Mr. Rathbun know in January the status of the vacancy in North Carolina. The Council would like to have the vacancy filled by the next meeting.

At-Large Members of the Compact Council to be Nominated by the Compact Council Chairman:

Chairman Rehmann asked for recommendations from the Council for the state/local noncriminal justice agency representative and the state/local criminal justice agency representative. Since there were no recommendations, Chairman Rehmann said he would be the repository for the Council recommendations. Council members are to E-mail him any ideas or suggestions and then he would circulate the recommendations to the Council via E-mail.

NEXT MEETING OF THE COMPACT COUNCIL

Chairman Rehmann said that the Compact Council should meet again within six months. He added that it might be useful to have two or three meetings each year, especially in the first year of the Compact Council's operation.

The FBI and Compact Council will consider the possibility of holding the next Compact Council meeting in the second week of May 2000 to coincide with meetings of the CJIS Advisory Policy Board subcommittees. As an alternative, the next Compact

Council be held on May 2-3, 2000. The FBI will inform Compact Council members of the dates of the meetings as soon as they become known, probably within the next two weeks.

Rathbun will coordinate the agenda for the next Compact Council meeting with Chairman Rehmann. Compact Council members requested much lead time as possible when submitting agenda to Chairman.

William Casey made a motion to adjourn the meeting.

Uzzell adjourned the meeting at 11:00 a.m. on November 18, 1999.

meeting might May 2-3, 2000. Council will inform of the dates of subcommittee as soon as they known, within the next

Mr. Rathbun will coordinate the agenda for the next Compact Council meeting with Chairman Rehmann. Compact Council members requested much lead time as possible when submitting agenda to Chairman.

Mr. Casey made a motion to adjourn the meeting. Uzzell adjourned the meeting at 11:00 a.m. on November 18, 1999.